

13. After that donation, the Walsworth Firm and Mr. Mendiola became participants, along with Justice Castro, in the formation and funding of the HMF, and participated in the *ex parte* contacts with Justice Castro concerning the same. A luncheon was held on May 12, 2000 to which those of the Estate involved with the HMF were invited by Justice Castro. See invitation letter Exhibit 20, and, on information and belief, pictures taken at the gathering. See Exhibit 21.

14. I was not notified of these ex parte contacts between Justice Castro and other attorneys for parties in the Hillblom Estate litigation, although I was counsel for an heir claimant

15. The original drafts and correspondence attached hereto indicate that the HMF as originally anticipated would, at Mr. Lujan's request, have Justice Castro as a permanent board member and give him discretion over dispersing a certain pool of money in the HMF. For example, see Mr. Lujan's letter to the SRA and Justice Castro dated May 22, 2000. See Exhibit 26, and early drafts of the HMF.

16. The early drafts also provide for the board members to hire staff and be reimbursed for expenses such as travel.

17. The Articles and Bylaws of the HMF as finally filed in September of 2000 do not follow the earlier drafts. On information and belief the earlier drafts linking Board membership to donations and making Justice Castro a permanent board member would have rendered the HMF ineligible for non-profit or charitable foundation tax status. The goal of the HMF remains to support the activities of the law library and the judiciary. See Exhibit 1.

1 18. Current Board members of the HMF are former Hillblom Estate Special Administrator
2 Diego Mendiola, former Hillblom Estate Special Master Pedro Atalig, and David Lujan, based on
3 records file with the CNMI. Exhibit 1.

4 5 19. I believe that working so hard and long with Mr. Lujan in establishing the HMF has
5 6 biased Justice Castro in favor of David Lujan and the JLH Trust. The Exhibits showing
6 7 communication between Mr. Lujan and Justice Castro exhibit Mr. Lujan's attempts to influence
7 8 Justice Castro by providing funding for a matter obviously of great concern to Justice Castro, the
8 9 10 law library.

9 11 20. I certainly do not fault Justice Castro for wanting to promote the law library. However,
10 12 the canons of ethics for lawyers and the Code of Judicial Conduct are meant to uphold and protect
11 13 the objectivity and independence of the legal profession and of the judiciary. These rules are meant
12 14 to apply even if the goal being sought is worthy and charitable. Having such close contact with a
13 15 counsel who is donating a client's money to create a court sponsored charity during ongoing
14 16 litigation can only lead to the appearance of bias, and may create bias on the part of a judge, even if
15 17 subconsciously.

16 20 21 22 23 24 25 26 27 28 21. On information and belief, David J. Lujan donated \$200,000.00 to charity on Guam
upon the request of a judge, and subsequently, the judge, with urging from an appellate court,
recused himself from a proceeding in *EIE Guam Corp. v. The Long Term Credit Bank of Japan,*
Ltd. et al., U.S. D.C. (D.G. Guam), Civ. Action No. 00-0009, which Mr. Lujan was counsel of
record for a party.

22 22. I further believe that Justice Castro has exhibited this bias in several manners.

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2 23. Mr. Lujan notes in his affidavit in the lower court (Exhibit 39) which was filed not as
3 part of any motion nor on behalf of an identifiable party, that his client, Junior, received "millions"
4 more than my client from the Hillblom Estate. That two children sharing an estate equally would
5 receive awards differing by millions of dollars shows bias towards Mr. Lujan and the JLH Trust by
6 Justice Castro,
7

8 24. Any fair reading of the April 8, 2000 transcript certainly shows the esteem in which
9 Justice Castro holds Mr. Lujan, who at that time was scheduled to be a board member along with
10 Justice Castro on the HMF.

11 25. Justice Castro's actions in this case can be explained only by his continued friendship
12 and close relationship with Mr. Lujan. Justice Castro issued an order removing me as Receiver and
13 removing my counsel within hours of the Bank of Saipan's unilateral petition to this Court for an
14 extraordinary writ. Justice Castro did so without affording the Receiver, as the representative of
15 CNMI Superior Court Judge Edward Manibusan and responsible for protecting the depositors of
16 the Bank of Saipan, any meaningful opportunity to present a case. Justice Castro did not afford the
17 Receiver any opportunity to be heard at argument or to present evidence before he ruled. Justice
18 Castro did not permit the Receiver any meaningful opportunity to present the law that clearly
19 establishes that I have conducted the office of Receiver appropriately in all respects and only with
20 Judge Manibusan's direct supervision as his representative. Justice Castro cited no law and no
21 facts that justify his actions which served to protect his friends and the major donor to his pet
22 charity.
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26. I am also informed and believe that Justice Castro is a close personal friend and confidant of Joe Lifoifoi, who was a director of the Bank of Saipan during relevant times. The Bank's directors all face potential liability for the failure of the bank. Mr. Lifoifoi will certainly be called as a witness in any litigation involving the actions of the bank's directors. Mr. Lifoifoi was appointed by Justice Castro to serve as liquidating trustee for the Hillblom Estate until March 8, 2002, after which Mr. Lifoifoi became a director of the Bank of Saipan. To demonstrate the high respect and friendship Mr. Lifoifoi and Justice Castro share, I would point to the Order Approving Termination of Liquidating Trust, filed with the Superior Court on March 8, 2002. Attached, See Exhibit 38 see page 14. Despite the fact this was an order implementing a negotiated agreement between the parties, Justice Castro interliniated the \$150,000 fee agreed to as compensation for Mr. Lifoifoi, and hand wrote in "\$350,000" without notice or hearing. Certainly this reasonably brings into question whether Justice Castro can be impartial toward Mr. Lifoifoi or the Bank on which Mr. Lifoifoi served as director with David Lujan.

27. Justice Castro's selection of Guam Superior Court Judge Lamorena to provide second vote on the CNMI Supreme Court is further evidence of Justice Castro's bias in favor of, and his close relationship with, Mr. Lujan and the JLH Trust. Justice Castro knows of Judge Lamorena's relationship with Mr. Lujan, because, as Justice Castro knows from the Hillblom probate, Judge Lamorena is the guardianship court judge for Mr. Lujan's client, the JLH Trust. Judge Lamorena approved the formation of the JLH Trust and Mr. Lujan's representation of the JLH Trust. On information and belief, Justice Lamorena has continued oversight authority of the

1 JLH Trust. The JLH Trust is a potential defendant for its unlawful receipt of Bank of Saipan
2 Funds.

4 28. I am informed and believe, and on that basis state, that David Lujan's sister is, and at
5 material times has been, the chambers clerk of Judge Lamorena prior to and during these
6 Receivership proceedings.

8 29. Judge Lamorena's close relationship with Mr. Lujan is so well established that he has
9 previously recused himself from matters involving Mr. Lujan. See Motion to Recuse Presiding
10 Judge Albert C. Lamorena dated June 14, 2002. In this case, Justice Castro immediately selected
11 Judge Lamorena to rule on matters initiated by Mr. Lujan and the Bank of Saipan.
12

13 30. Mr. Lujan's naked affidavit which was not accompanied by a motion or other pleading
14 submitted in the lower court in this proceeding is full of misrepresentations and false statements,
15 including the statements he attributes to me. It is true that I have no respect for Mr. Lujan's tactics
16 in the Hillblom probate and the actions that he took, as described in this affidavit, to influence
17 Justice Castro to favor Mr. Lujan and Mr. Lujan's client. Those actions bring disrespect to the
18 CNMI judicial system.
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20 31. My opinion of Mr. Lujan has no effect, however, upon my performance of the
21 responsibilities of the Receiver for the Bank of Saipan. Neither the Receiver nor the Superior Court
22 that appoints the Receiver and to whom the Receiver reports for guidance and direction will serve as
23 the fact-finder in any claim that might be brought on behalf of the Bank of Saipan to remedy the
24 frauds and other wrongful conduct that led to the Bank's collapse and the Bank's inability to pay
25 innocent depositors the funds that they placed in trust with the Bank. The CNMI Superior Court
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1 may conclude that actions need to be brought against Mr. Lujan and the JLH Trust and those
2 persons acting in concert with Mr. Lujan who received millions of dollars from the Bank of Saipan
3 shortly before its collapse. The Superior Court may conclude that there is substantial evidence that
4 the actions by Mr. Lujan and the JLH Trust, in concert with others, knowingly defrauded the Bank
5 and led to the events which saw millions of trust dollars leave the Bank at the expense of depositors,
6 including the CNMI government. If the Superior Court reaches those conclusions, the Superior
7 Court who appoints the Receiver will not sit in judgment, but those cases will be assigned to a
8 different court for an independent determination. Thus, Mr. Lujan has nothing to fear but the truth.
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32. The truth regarding the role Mr. Lujan played or did not play in the collapse of the
Bank of Saipan should be determined by independent judicial officers. Justice Castro is directly
tied to Mr. Lujan in conduct which persists to this day and which violates clear canons of judicial
independence and propriety. Accordingly, Justice Castro must be disqualified from hearing matters
affecting Mr. Lujan's interest or the interests of his client, the JLH Trust. All actions taken by
Justice Castro, including his appointment of Mr. Lujan's admitted friend or associate, Judge
Lamorena, should be vacated and independent judicial officers appointed judicial officers to hear all
further proceedings in this case.

33. In summary, Mr. Lifoifoi and Mr. Lujan are or were directors of the Bank of Saipan.
The directors of the bank may face civil liability for the collapse of the bank. Mr. Lifoifoi will
almost certainly be called as a witness if this matter goes to trial. These gentlemen are personal
friends of Justice Castro. The JLH Trust may face liability for the wrongful removal of funds from
the Bank of Saipan. The JLH Trust is the major past donor and is expected to donate further to the

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2 HMF, of which Justice Castro is one of the founding fathers. Justice Castro should not be involved
3 in decisions deciding the fate of these parties.
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RANDALL T. FENNELL
RECEIVER FOR BANK OF
SAIPAN

EXHIBIT 9

number: 42577

Security Title				Bk	Page	Description
Doc No.	Doc Type	Grantor	Grantee	Bk	Page	Description
0-1985	WD	Castro, Alfredo Quichacho	Borja, Antonio H	10	132	Lot 254 T 22 (964m ²) Plat 254 T 02
0-1985	WD	Castro, Alfredo Quichacho	Borja, Antonio H	10	132	Lot 254 T 21 (977m ²) Plat 254 T 02
0-1986	WD	Castro, Alfred Q	Borja, Antonio H	10	131	Lot 254 T 21 (977m ²)
0-2496	WD	Castro, Alejandro Cruz	Mangiona, Harry C	10	144	Lot 2, Block 9
1-0327	QC	DPL	Castro, Allen Kumangai	11	17	Lot 045 A 162 (946m ²)
1-0712	WD	Mangiona, Henry Castro	Castro, Alejandro Cruz	11	19	Lot 343 R 01 (1,858m ²)
1-1827	AQC	BPL	Castro, Allen Kumangai	11	48	Lot 045 A 162 (01-0327)(Amended Quitclaime d
12-0630	WD	Castro, Alfred Q	Villagomez, Edward A	11	92	Lot 002 T 54 (332m ²)
379	L	Demapan, Margarita A.	Castro, Alejandro C.	1	10	S-GP; no data.
379	L	Demapan, Margarita A.	Castro, Alejandro C.	1	10	S-GP; no data.
5252A	D.G.	Castro, Joaquin V., Heirs	Castro, Alejandro C. C.	8	44	R-SS; Lot 2, Blk. 9; SII m2
5252A	D.G.	Castro, Segundo C.	Castro, Alejandro C. C.	8	44	R-SS; Lot 2, Blk. 9; SII m2
5252A	D.G.	Castro, Joaquin V., Heirs	Castro, Alejandro C. C.	8	44	R-SS; Lot 2, Blk. 9; SII 97 m2
5252A	D.G.	Castro, Segundo C.	Castro, Alejandro C. C.	8	44	R-SS; Lot 2, Blk. 9; SII 97 m2
5-0379	L	DEMAPAN, MARGARITA A.	CASTRO, ALEXANDRO C.	1	10	NO DATA
3-5252A	DG	CASTRO, JOAQUIN V. HEIRS	CASTRO, ALEXANDRO C.	8	44	L2, Blk. 9
3-5252A	DG	CASTRO, JOAQUIN V., HEIRS	CASTRO, ALEXANDRO C. C.	8	44	L2, Blk. 9
3-5252A	DG	CASTRO, SEGUNDO C.	CASTRO, ALEXANDRO C. C.	8	44	L2, Blk. 9
3-5252A	DG	CASTRO, SEGUNDO C.	CASTRO, ALEXANDRO C. C.	8	44	L2, Blk. 9
4-1322	QC	Mangiona, Justin S.	Castro, Alejandro M., Jr.	1	45	S-AL-Tract 21714-1-6; 1539 m2
4-1322	QC	MANGLONA, JUSTIN S.	CASTRO, ALEXANDRO M., JR.	1	45	T21714-1-6
5-2568	QC	MPLC	Castro, Alfredo & Mar	1	146	Lot 006 T 110 (976m ²)
5-2568	QC	MPLC	Castro, Alfredo & Mar	1	146	Lot 006 T 110 (976m ²)
5-2568	QC	MPLC	CASTRO, ALFREDO & MARGARI	1	146	L006T110
7-0293	DG	Duenas, George & Margarita	Castro, Alejandro C	2	23	Tract 22713-2-1 (929m ²)
7-0293	DG	Duenas, George & Margarita	Castro, Alejandro C	2	23	Tract 22713-2-1 (929m ²)
7-0293	DG	Duenas, George & Margarita	Castro, Alejandro C	2	23	Tract 22713-2-1 (929m ²)
7-0293	DG	DUENAS, GEORGE & MARGARITA	CASTRO, ALEXANDRO C.	2	23	T22713-2-1
7-0293	DG	DUENAS, MARGARITA & GEORGE	CASTRO, ALEXANDRO C.	2	23	T22713-2-1
7-3094	D.G.	Duenas, Margarita A.	Castro, Alejandro C.	2	90	S-NH; Tract E.A. 445-5-3-R1; 929 m2
7-3094	D.G.	Duenas, Margarita A.	Castro, Alejandro C.	2	90	EA 445-5-3-R1 (929m ²)
7-3094	D.G.	Duenas, Margarita A	Castro, Alejandro C	2	90	Tract 22713-2-1 (929m ²)
17-3094	DG	DUENAS, MARGARITA A.	DUENAS, MARGARITA A.	2	90	EA 445-5-3-R1 (929m ²)
17-3094	DG	DUENAS, MARGARITA A.	CASTRO, ALEXANDRO C.	2	90	EA445-5-3-R1
17-3095	D.G.	Castro, Alejandro C.	Duenas, Margarita A.	2	90	S-NH; Tract 22713-2-1; 929 m2
17-3095	DG	Castro, Alejandro C.	Duenas, Margarita A.	2	90	Tract 22713-2-1 (929m ²)
17-3095	DG	CASTRO, ALEXANDRO C.	DUENAS, MARGARITA A.	2	90	EA 445-5-3-R1 (929m ²)
17-3279	QC	MPLC	Castro, Alejandro C	2	94	Lot 345 R 186 (986m ²)
17-3279	QC	MPLC	CASTRO, ALEXANDRO	2	94	L345R186

EXHIBIT 10

CompuServe Mail - Message View

Page 1 of 2



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Date: Tue, 11 Jun 2002 17:56:35 -0700
From: ["Becker, Julie" <JBecker@SCHWABE.com>](#)
To: ["Randall T. Fennell Esq. \(E-mail\)" <rfennell@cs.com>](#)

I am going to stay tonight until I hear that you have received everything. Can you please email me as soon as the fax is complete? Don't call, because our voice mail message system is down for upgrades.
 Here is what I faxed:

- * My three Excel sheets of payments to Mendiola, Atalig and Walsworth
- * Appendix I to Petition... This is the report covering estate expenses 5/95-7/31/99. The document is a total of 81 pages; the last page of the statement itself is numbered 79.
- * Declaration of Aguilar (2 pages), with Exhibit D (24 pages). Exhibit D is the report covering estate expenses 8/1/99-1/31/00.
- * Declaration of Jacob (2 pages), with Exhibit A (13 pages). Exhibit A is the report covering estate expenses 2/1/00-3/31/00.
- * Report Regarding Executor's Compliance with Final Distribution Order (10 pages), with Exhibit L (8 pages). Exhibit L is the report covering estate expenses from 4/1/00-4/28/00.
- * Petition for Partial Final Accounting and Approval of Potential Waiver of Conflicts (7 pages), with Declaration of David Mair (2 pages), with Exhibit 1 (5 pages), Exhibit 2 (9 pages), Exhibit 3 (8 pages), Exhibit 4 (9 pages), Exhibit 5 (8 pages), Exhibit 6 (5 pages), and Exhibit 7 (7 pages). Exhibits 1-7 are the reports covering Liquidating Trust expenses 4/1/00-12/31/01.
- * Supplemental Petition... (3 pages), with Exhibit A (5 pages), Exhibit B (4 pages), Exhibit C (2 pages), and Exhibit D (2 pages). Lifoifoi's Notice of Joinder (2 pages) is included; you can discard this. Exhibits A-D are the reports covering Liquidating Trust expenses January and February 2002.
- * Petition for Final Accounting... (5 pages), with Exhibit A (8 pages). Exhibit A is the report covering Liquidating Trust expenses 3/1/02-4/8/02.
- * Order Granting Approval of Compensation to SA... (3 pages). This covers the Carlsmith settlement proceedings.
- * Atalig's 12/23/99 Recommendation on Tax Allocation.

Hope to hear from you soon.

